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1	D. Larue	D. Larue
2	Q. Can you identify Larue Exhibit 4	provided to you by a counsel provided to you
3	for me, please?	orally or in writing or both?
4	A. This appears to be a copy of the	A. Orally.
5	report that I filed in January of 2007.	Q. And the facts that were -- you were
6	Q. And Larue Exhibit 4 is a copy of	asked to assume as reflected in your report,
7	the document that you were reading from just	were they provided to you orally or in
8	a moment ago when you identified what you	writing?
9	were asked to do?	A. By counsel, orally.
10	A. Yes, sir.	Q. Did anyone else provide you
11	Q. And if you turn to Exhibit 3 of	assumptions other than counsel?
12	Larue Exhibit 4, it identifies the materials	A. I don't know. I certainly had some
13	you considered in preparation for this	discussions with Amir Rosen at Cornerstone.
14	report, correct?	I don't remember the content of all of those
15	A. That's what Exhibit 3 does, yes,	discussion. He may have reviewed a draft and
16	sir.	suggested that this assumption was
17	Q. Is it complete?	inappropriate. I just don't recall.
18	A. As far as I know, it's complete.	Q. And did Cornerstone provide you
19	Q. And if you turn to page 2 of	anything in writing?
20	Exhibit 3 of Larue Exhibit 4, it identifies	A. In writing, dealing with what?
21	two complaints on that page.	Q. Dealing with this matter?
22	Do you see that?	A. Well, they provided me, I mean,
23	A. Yes, sir.	they would comment on my draft and so that
24	Q. Are those the only two complaints	was a provision in writing, basically
25	that you reviewed prior to the submission of	corrections or typos and so forth or
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1	D. Larue	D. Larue
2	your report on January 5, 2007 in this	questions or comments on my drafts that I had
3	matter?	sent out.
4	A. I think so. I don't remember -- I	Did they provide me with other
5	remember looking at two. I'm trying to	things? They provided me with a number of
6	remember if one -- I believe these are the	Bates stamped document.
7	two that I looked at.	Q. Is everything other than the draft
8	Q. Have you reviewed any other	that Cornerstone provided you related to this
9	complaints in this matter since the	matter reflected on Exhibit 3?
10	submission of your report on January 5, 2007?	MR. BUTLER: Objection to the form.
11	A. No, sir.	He didn't say the drafts were provided
12	Q. And so when you referred to	by Cornerstone, but you can answer the
13	plaintiff's assertions in your report, you	question.
14	are referring to the assertions in these two	A. Let me be clear. I generated those
15	complaints, correct?	drafts. I would get comments, written
16	A. No, sir.	comments back sometimes on those drafts.
17	Q. What are you referring to?	Sometimes the comments would be oral.
18	A. I'm referring to the assertions	Q. I didn't mean to suggest anything
19	that counsel had asked me to assume that	else.
20	plaintiff would make or had already made or	I assume when you got it back, you
21	were made in these complaints.	referred to the comments on those drafts?
22	I didn't derive from these reports	A. Yes, I just want to be clear. As
23	what complaints I would respond to or what I	far as the -- I reviewed this sheet, Exhibit
24	wouldn't.	3.
25	Q. Were the assertions that were	As to the specific Bates numbers, I

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1	D. Larue	1	D. Larue
2	believe that was provided to me by	2	Q. We will agree that your report is
3	Cornerstone. They had accumulated and made a	3	Larue Exhibit 4 and I will try to use the
4	comprehensive listing of the documents I had	4	term report.
5	been provided with. As far as I know, this	5	Fair enough?
6	is complete.	6	A. Yes, sir.
7	Q. So other than the marked up drafts,	7	Q. Let me rephrase the question.
8	everything that Cornerstone provided to you	8	At the top of page 4 of your
9	relating to this matter is reflected on	9	report, you refer to certain factual
10	Exhibit 3?	10	assumptions, correct?
11	A. I believe so.	11	A. Yes, sir.
12	Q. Now, you described what you were	12	Q. It is those factual assumptions
13	asked to do and I believe that you read	13	that you base the opinions set forth in
14	paragraphs 4-A through 4-D of Larue Exhibit	14	paragraph 4-C of your report, Roman S-I
15	3, is that correct?	15	through V, correct?
16	A. Yes, sir.	16	A. To the best my knowledge and
17	Q. And did you do everything that you	17	belief, yes.
18	were asked to do as reflected in paragraphs	18	Q. Are all of the factual assumptions
19	4-A through 4-D?	19	you refer to in paragraph C set forth in your
20	A. I believe I did.	20	report?
21	Q. Did you do anything else in this	21	A. To the best of my knowledge and
22	matter?	22	belief, they are.
23	A. Not that I recall.	23	I would also indicate I filed a
24	Do you have a specific example?	24	rebuttal case in this report and I believe
25	Q. Just a question.	25	there may have been some assumptions stated
	Page 111		Page 113
1	D. Larue	1	D. Larue
2	A. I don't recall doing anything else.	2	there in response to Mr. Love's report.
3	What I did was write this report and review	3	Q. Are the factual assumptions, if you
4	the documents.	4	can turn to, page 23, there is a section 4,
5	Q. And are all of the opinions about	5	Roman I, entitled Relevant Factual
6	which you are prepared to testify at trial in	6	Background, correct?
7	this matter reflected in your opening report	7	A. Yes, sir.
8	and/or your rebuttal report?	8	Q. That goes through about somewhere
9	A. As far as I know, they are.	9	on page 26, correct?
10	Q. Are the bases for each of those	10	A. Roman numeral I goes through page
11	opinions set forth in your opening report	11	26. I'm sure that throughout some of the
12	and/or rebuttal report?	12	other discussions, there are additional
13	A. I believe they are.	13	factual assumption that are articulated.
14	Q. If you look at page 4, at the top,	14	Q. Is all of Roman I on pages 23
15	it talks about based on certain factual	15	through 26 factual assumptions that you were
16	assumptions, correct?	16	asked to make by counsel for Dexia?
17	A. Yes, sir.	17	A. Directly or indirectly, I would say
18	Q. Are all of the factual assumptions	18	the answer to that question is yes.
19	on which you base your opinions in paragraph	19	I will say that I have reviewed,
20	4-C set forth in Larue Exhibit 3?	20	for example, I think you referred to the
21	MR. BUTLER: I don't understand.	21	first complaint or the third complaint or
22	Q. I'm sorry, Larue Exhibit 4, your	22	fourth complaint and I had -- my recollection
23	report.	23	is that I had prepared a draft based on what
24	A. I named my appendices exhibits, so	24	I took to be factual representations in that
25	I'm getting confused.	25	complaint and I believe I drafted up, you

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1 D. Larue

2 know, my understanding of the facts and
 3 circumstances and in subsequent -- counsel
 4 reviewed that draft and may have made
 5 corrections or additions.

6 I know in a couple of cases,
 7 probably made some additions to the facts
 8 that I had assumed to be true in this case,
 9 so I prepared the first draft based on, I
 10 believe, these complaints and those facts
 11 were revised in order to more accurately
 12 depict what was going on.

13 Q. More accurately depict not what was
 14 going on, but what counsel wanted you to
 15 assume?

16 MR. BUTLER: That's not what his
 17 testimony was.

18 A. It's my understanding that the
 19 factual assumptions that I was asked to make
 20 were factual assumptions and the opinion of
 21 counsel were true and correct.

22 I don't believe I was asked to
 23 assume anything and I didn't find anything
 24 that would cause me to believe that I was
 25 asked to assume something that was incorrect.

1 D. Larue

2 I presume that most of the facts or
 3 all of the facts stated as stated are true
 4 and correct, but I presented them as factual
 5 assumptions. I didn't perform any
 6 independent investigation of the facts to
 7 determine the accuracy of those facts.

8 Q. And, fair enough, I just wanted to
 9 make sure that if someone were to pick this
 10 up and miss -- pick it up on page 20, start
 11 reading on page 25 and not have read
 12 paragraph 58, that they understand that those
 13 statements are statements of assumptions, not
 14 statements of facts based on your
 15 investigation of the facts?

16 A. That's a fair statement.

17 Q. That's true of all statements that
 18 appear to be statements of facts in your
 19 report, correct, they are assumptions?

20 A. No, that's not true.

21 In section 4, beginning on page 37,
 22 I do believe I make specific references to
 23 specific documents that were reviewed.

24 Which is not to say there aren't
 25 assumptions in there, as well, but I believe

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1 D. Larue

2 Q. So -- but let me make sure this
 3 is -- that I'm sure I understand.

4 There are statements of facts set
 5 forth in your report, correct, about this
 6 matter?

7 A. As I've indicated on page 23, I had
 8 been asked to make factual assumptions. I'm
 9 not stating factually that -- the assumptions
 10 certainly under Roman numeral I are
 11 assumptions that I believed to be true, but I
 12 haven't made any independent investigation to
 13 confirm the accuracy of those assumptions or
 14 facts.

15 Q. That's really what I want to make
 16 sure I understand is that the statements
 17 which appear to be statements of fact are
 18 really statements of your assumption,
 19 correct?

20 MR. BUTLER: I object to the form
 21 of the question. He stated, quite
 22 clearly stated that these are factual
 23 assumptions.

24 A. I did state there that these are
 25 factual assumptions.

1 D. Larue

2 a number of these facts were verified to the
 3 extent that the documentation indicated them
 4 to be so.

5 Q. I guess I'm really now not
 6 understanding. I think it's important that I
 7 do try to understand.

8 You are referring to section 4 that
 9 begins on what page?

10 A. Thirty-seven.

11 Q. So this is Roman IV, not section 4
 12 that begins on page 26?

13 A. That's correct.

14 Q. So Roman IV through page 43,
 15 correct?

16 A. Yes, sir.

17 Q. And just so I understand correctly,
 18 that in certain statements here, you set
 19 forth what was reflected in documents,
 20 correct?

21 A. Reflected in the footnoted
 22 documents, yes.

23 Q. Did you do anything to determine
 24 whether or not those documents were accurate?

25 MR. BUTLER: I object to the form

30 (Pages 114 to 117)

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<p style="text-align: right;">Page 118</p> <p>1 D. Larue 2 of the question. 3 A. You'll have to define what you mean 4 by accurate. They were to the best of my 5 knowledge and belief, the documents. 6 Q. For example, and this is an 7 extreme, but I just want to understand your 8 methodology. 9 If a document said Joe Lernout 10 killed his mother, you did nothing to 11 determine whether, in fact, Joe Lernout 12 killed his mother? 13 MR. BUTLER: Objection to form. 14 A. I don't like that exhibit. If a 15 KPMG document said we performed this 16 procedure and this is how we did it and here 17 are the documents we found to support that, I 18 assume that's what they did. 19 I didn't interrogate or interview 20 any of the people who authored the documents. 21 I assume the documents provided in the KPMG 22 file were accurate reflected what they were 23 purported to reflect, unless I've stated 24 otherwise, which I may have someplace along 25 the way.</p>	<p style="text-align: right;">Page 120</p> <p>1 D. Larue 2 committee report. 3 Q. Okay. Did you reject any facts 4 from the audit committee report? 5 MR. BUTLER: Objection to form. 6 A. Any facts or opinions? 7 Q. Facts. 8 A. The portion of the audit committee 9 report that addressed the issues that I was 10 looking at, I don't recall that I 11 reflected -- I don't recall that I rejected 12 any facts, but, again, there may have been 13 facts in there that I may have rejected that 14 had to do with other aspects of the 15 transaction or earlier transactions. 16 I don't know what you mean by 17 reject. 18 Q. Did you assume that the facts set 19 forth in the audit report were true? 20 MR. BUTLER: Objection to form. 21 A. I would have to go back and reread 22 the report. 23 I don't remember. When you say 24 that, they may have used some terminology 25 that I didn't feel comfortable with or I</p>
<p style="text-align: right;">Page 119</p> <p>1 D. Larue 2 Q. So the only documents that you're 3 referring to in Roman IV are KPMG work 4 papers? 5 A. I would have to look at the 6 footnotes. 7 No, sir, there were references to 8 BDB Bates numbers. There is at least one 9 reference there. 10 Q. Can you identify that for me? 11 A. No, sir. 12 Do you mean read the number? 13 Q. Just point me to the page. 14 A. I'm sorry, 41. I thought you 15 wanted me to tell you what was on that 16 document from memory. 17 Footnote 129. 18 Q. Any other non-KPMG work papers that 19 are reflected in Roman IV? 20 MR. BUTLER: Objection to form. 21 A. I don't see any as I sit here 22 looking at them. 23 Let me clarify, some of the factual 24 assumptions made in this report, as 25 referenced in the report, were from the audit</p>	<p style="text-align: right;">Page 121</p> <p>1 D. Larue 2 didn't feel accurately reflected or I felt 3 was ambiguous. I would have to go back and 4 reread it. 5 Q. Fair enough. 6 Is this a fair statement, if the 7 facts that you were asked to assume were 8 inaccurate, then your opinions would be 9 different? 10 A. That's not fair to assume. As a 11 global statement, clearly, it would depend on 12 what facts you're referring to. 13 If the facts proved to be 14 different, they may or may not be relevant to 15 the opinions I expressed. 16 If, in fact, they are different, in 17 what way are they different? What is the 18 order of magnitude of the difference and how 19 does that effect my overall opinion? 20 So if it proved to be the case that 21 some of the facts on which I stated that I 22 based my opinion proved to be incorrect or 23 inaccurate, I would have to go back and 24 review those facts and circumstances to make 25 a determination as to whether or not that has</p>

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1 D. Larue
 2 any effect on the opinion that I expressed
 3 and I actually indicated that in section 1,
 4 that any additional information that would
 5 change those underlying facts, that's one
 6 reason I disclose all of the facts that I'm
 7 relying on in my opinion -- in my report.
 8 Q. Are any of the facts that you
 9 disclose in your -- are any of the -- they're
 10 just factual assumptions, correct?
 11 A. They're factual assumptions,
 12 presumably they're factual.
 13 Q. Why do you presume that?
 14 A. Well, I presume that some of the --
 15 they're factual assumptions.
 16 Q. Okay. And who do you believe
 17 would -- is more likely to provide complete
 18 and unvarnished facts regarding this -- the
 19 events at issue here, the United States
 20 Security and Exchange Commission or Dexia's
 21 counsel?
 22 MR. BUTLER: Objection to form.
 23 You guys really like the SEC.
 24 You can answer the question.
 25 A. I believe that the factual

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1 D. Larue
 2 A. Specifically by name?
 3 Q. Yes.
 4 A. No.
 5 Q. By category?
 6 A. I know there have been a number of
 7 depositions in this case.
 8 Specifically where they derived the
 9 facts that they asked me to assume in this
 10 case, I couldn't tell you.
 11 Q. Because you had said you don't know
 12 who the SEC interviewed.
 13 Do you know who Dexia's counsel
 14 interviewed?
 15 A. No.
 16 Q. And you know that there were
 17 depositions in this case, but you chose not
 18 to read any?
 19 A. I don't believe the depositions --
 20 again, I made the factual assumptions clearly
 21 stated in my report. I wasn't engaged and
 22 did not conduct a thorough independent
 23 investigation of the underlying facts and
 24 circumstances in order to test the veracity
 25 of the facts and circumstances that I assumed

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1 D. Larue
 2 assumptions upon which I was asked to rely
 3 provided to me by counsel -- I'm trying to
 4 find a way to answer your question.
 5 Q. Just try answering it.
 6 A. I believe what I was told by
 7 counsel, I reflected that in this report,
 8 I've done that, so opposing counsel and
 9 opposing counsel's expert has an opportunity
 10 to test the veracity of those assumptions.
 11 I tried to write a report. I
 12 believe I did write a report that was
 13 transparent in that sense. I don't know
 14 anything -- I don't know about the SEC. I
 15 don't know anybody at the SEC. I don't know
 16 what kind of time and effort was put into
 17 this. I don't know what kind of documents
 18 the SEC consulted, who they consulted, who
 19 they interviewed, if they interviewed anyone.
 20 I don't know the bases upon which
 21 they or the thoroughness upon which they
 22 based their conclusions or recitation or
 23 interpretation of the facts.
 24 Q. In providing the facts, do you know
 25 who Dexia's counsel consulted?

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1 D. Larue
 2 in my report and that is why I disclosed what
 3 facts I was relying on.
 4 Q. Just so it's clear, you did not
 5 conduct a thorough and complete investigation
 6 to determine any facts in this case, correct?
 7 A. To determine the veracity of the
 8 facts in this case, my understanding is there
 9 are over a million and a half pages of
 10 documents.
 11 I did not review all of those
 12 documents. I did not look for documents for
 13 the purpose of determining whether or not the
 14 document was complete or factually correct.
 15 Q. Okay. If you look at page 4 of
 16 your report, paragraph 4-C, Roman I.
 17 You refer to these transactions,
 18 correct?
 19 A. These transactions, yes, sir.
 20 Q. What transactions?
 21 A. The specific transactions at issue
 22 that are described in section 4.
 23 Q. What are they?
 24 A. Those were the licensing
 25 transactions involving the Radial LDCs, the

32 (Pages 122 to 125)

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1 D. Larue
 2 LIC, LDCs and the LDF LDCs.
 3 Q. Just so it's clear, those
 4 transactions are not described in your
 5 report.
 6 What is described is assumptions
 7 about those transactions that you were asked
 8 to make, correct?
 9 MR. BUTLER: Objection to form.
 10 A. As far as I know, the transactions,
 11 to the extent that they are described in my
 12 report are, as far as they go, accurate
 13 descriptions of the transactions that took
 14 place.
 15 Frankly, some of those
 16 descriptions, to some extent or to some
 17 considerable extent, those transactions or my
 18 description of those transactions was, in
 19 part, derived from the complaints I cited in
 20 Exhibit 3 to my report.
 21 Q. Is it your position that all the
 22 facts set forth in those complaints are true
 23 and correct?
 24 A. Absolutely not.
 25 Q. How do you decide which were true

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1 D. Larue
 2 answers from this witness.
 3 MR. HARRIS: The truth will allow
 4 it.
 5 Q. Mr. Larue, you said that exhibit --
 6 section 4 sets forth the true facts, to the
 7 best of your knowledge?
 8 MR. BUTLER: It's not true.
 9 A. The facts, to the best of my
 10 knowledge.
 11 MR. BUTLER: Object to the
 12 question.
 13 MR. HARRIS: Read back his last
 14 answer.
 15 (Record read.)
 16 Q. You say as far as I know. The
 17 transactions are accurate and all you know,
 18 because you didn't do an independent
 19 investigation, is what you were told by
 20 counsel, correct?
 21 A. No, sir.
 22 Q. What else did you do?
 23 A. As I explained, I also had -- I
 24 also reviewed and made an initial
 25 understanding of my facts from

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1 D. Larue
 2 and correct and which weren't?
 3 MR. BUTLER: Objection to form. He
 4 said he conducted no factual
 5 investigation and he hasn't been asked
 6 or done any determination as to whether
 7 any particular fact in this case is true
 8 or not.
 9 MR. HARRIS: But he keeps saying,
 10 to the best of my knowledge, they're
 11 true, and I want to know what that
 12 knowledge is, so I'm going to keep
 13 asking him.
 14 MR. BUTLER: If you think he is
 15 wrong, tell him what's wrong. His
 16 opinions are his opinions. His factual
 17 assumptions are clearly set forth.
 18 I don't -- you're spending all your
 19 time asking about his factual
 20 assumptions when you should be asking
 21 about his opinions, so if you think any
 22 of them are wrong, you can --
 23 MR. HARRIS: I saw your deposition
 24 yesterday.
 25 MR. BUTLER: You'll get much better

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1 D. Larue
 2 representations made, I believe by some -- I
 3 don't remember who the complaint was issued
 4 by or who -- I'm not an attorney, so I don't
 5 really understand, but I did read that
 6 complaint.
 7 There were factual assertions being
 8 made in that report, okay, that were part of
 9 my summary of the facts in section 4 of my
 10 report, so it wasn't -- my understanding of
 11 the facts or the factual assumptions didn't
 12 derive solely from counsel, it derived also,
 13 in particular, from the report of the audit
 14 committee from the text of whatever complaint
 15 that I have cited in my report.
 16 Q. So let me make sure I understand.
 17 When you say that they are
 18 accurate, as far as you know, that is based
 19 on what you were told by Dexia's counsel,
 20 what plaintiffs alleged in two complaints,
 21 but not the Baker plaintiffs and by the audit
 22 committee report, correct?
 23 A. One more thing.
 24 Q. Okay.
 25 A. That is, that I've never seen

33 (Pages 126 to 129)

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1	D. Larue	1	D. Larue
2	anything that I would have considered to have	2	correct?
3	contradicted those facts.	3	A. That's correct.
4	Q. Did you ask for anything?	4	Q. And so when you say, I haven't seen
5	A. Obviously, I asked for the work	5	anything, the only thing you have seen is
6	papers that had been identified from the KPMG	6	what Dexia's counsel thought you should see,
7	work papers to independently review.	7	correct?
8	Did I ask for anything else? I	8	MR. BUTLER: Objection to form.
9	don't recall that I did.	9	A. Again, I would disagree with that.
10	Q. And so who decided what documents	10	The only thing I've seen is what was provided
11	you would review?	11	to Cornerstone Research and provided to me
12	A. At the end of the day, I would say	12	presumably by counsel.
13	I made that decision, but let me explain.	13	In the process of identifying what
14	The documents were provided to me	14	opinions I would render and what facts and
15	from Cornerstone Research. I didn't request	15	circumstances I needed in order to be able to
16	specific documents. I don't believe I	16	render those opinions I made a decision that
17	requested specific documents other than the	17	the documents that I had reviewed were
18	KPMG work papers anywhere along the way.	18	sufficient, assuming adequate disclosure in
19	However, in my discussions with	19	my report, which I believe I had done to
20	Cornerstone at the very beginning of this	20	render those opinions, so the documents I
21	engagement, I wanted it understood very	21	reviewed in this case, other than the KPMG
22	clearly if somewhere along the way, I felt	22	documents, are documents that were provided
23	there were documents I needed to see, that	23	to me and not requested by me.
24	that was my decision to make, not counsel's	24	Q. Let's just look at paragraph 73 on
25	decision, not Research Associates or	25	page 26. At the end of paragraph 23, you
Page 131		Page 133	
1	D. Larue	1	D. Larue
2	Cornerstone Associates' decision to make.	2	said, Moreover, Messrs. Lernout, Hauspie and
3	Q. But you didn't ask for any	3	Willard did not directly or indirectly own
4	additional documents?	4	any equity interest in LDF and did not
5	A. I didn't, and one of the reasons I	5	participate in the management of LDF,
6	didn't is that I felt that the facts that I	6	correct?
7	had available to me were sufficient to render	7	A. Yes.
8	the opinions that I've rendered in this	8	Q. And it is fair to say that you have
9	report. I didn't feel there was a scope	9	done no investigation as to whether or not
10	limitation of any sort, by virtue of not	10	Messrs. Lernout, Hauspie or Willard did, in
11	having these documents.	11	fact, participate in the management of LDF?
12	The other thing that is really	12	A. That's correct.
13	critical here is the fact that, again, my	13	Q. And so you were -- that is solely
14	report discloses the factual assumptions upon	14	and whether or not there are documents out
15	which I based my opinions and, of course, I	15	there that indicate that that is inaccurate,
16	know that you all are going to get a copy of	16	you neither saw them, nor asked to see them?
17	this. Your expert is going to get a copy of	17	A. I don't recall seeing any documents
18	this and, presumably, if there were any major	18	that indicated that. How do you prove a
19	problems in some of the factual statements,	19	negative? That indicated that they did
20	that would be brought to my attention and I	20	not -- I don't recall seeing documents that
21	would have an opportunity to reevaluate.	21	indicated that they didn't participate in
22	Q. When you say you haven't seen	22	management and I don't know what documents
23	anything that contradicts it, you indicated	23	would be available for that, but I didn't ask
24	there are millions of documents, lots of	24	to see documents. That's a factual
25	depositions, none of which you asked to see,	25	assumption that I've made.

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1 D. Larue

2 Q. You didn't ask for documents, you
 3 didn't ask, are there any documents that show
 4 that they did participate in the management
 5 of LDF?

6 A. That's correct.

7 Q. And you would agree that the
 8 documents in this matter, you have reviewed a
 9 very small subset, correct?

10 A. If, in fact, there are 1.5 or
 11 whereabouts, millions of documents out there,
 12 I've looked at a lot of documents, but
 13 certainly it's a small subset of what's out
 14 there.

15 Q. You have not reviewed any testimony
 16 or interviews of individuals relating to this
 17 matter, correct?

18 A. I've seen, I've looked at some of
 19 the depositions or pages out of depositions.
 20 Certainly the depositions in Mr. Love's
 21 report, cited in Mr. Love's report.

22 I saw the comments that he was
 23 referring to in his report, so certainly I've
 24 seen that, but that's, I'm sure, a very small
 25 subset.

1 D. Larue
 2 and inaccurate.

3 First of all, there may be factual
 4 statements that are unambiguous that a
 5 certain dollar amount is \$12 and it turns out
 6 to be \$14. There is an accuracy issue there.

7 Other facts lend themselves to
 8 various interpretations, so it may be there
 9 are facts and circumstances out there that
 10 would lend themselves to one interpretation
 11 by one person, a different interpretation by
 12 someone else, so we're using the term
 13 accurate versus inaccurate is probably a
 14 little bit of an overstatement for those
 15 facts and circumstances, but more to the
 16 point, if I felt there were facts and
 17 circumstances that were inaccurate, again,
 18 what I do is reevaluate my opinions in the
 19 light of those facts and circumstances and
 20 determine whether or not any sort of
 21 adjustment would be required or qualification
 22 would be required to any of my opinions I've
 23 rendered in this report.

24 Q. Let me ask this question just so I
 25 can understand.

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1 D. Larue

2 Q. It's fair to say that you really
 3 were not interested in determining whether or
 4 not these factual assumptions were accurate
 5 or inaccurate?

6 MR. BUTLER: Objection to form.

7 A. That's absolutely not true. I
 8 certainly wanted these factual assumptions to
 9 be correct. If I had believed that any of
 10 these factual assumptions were incorrect or
 11 had seen something to indicate that they were
 12 incorrect, I would have had a discussion with
 13 counsel about that.

14 Once again, I wasn't retained. I
 15 did not conduct any independent investigation
 16 of the underlying facts and circumstances to
 17 make the determinations about some of the
 18 factual assumptions that were stated very
 19 clearly in my report.

20 Q. And just so I make sure, if any of
 21 the facts in your report are inaccurate, one
 22 cannot know whether your opinion would change
 23 as a result of that inaccuracy, correct?

24 MR. BUTLER: Objection to form.

25 A. Well, let me talk about accurate

1 D. Larue

2 If a juror was to determine that
 3 one of the facts that you set forth in your
 4 report was inaccurate, he would not know
 5 whether or not, as a result of that
 6 inaccuracy, you would or would not change
 7 your opinion, correct?

8 MR. BUTLER: Objection to form.

9 A. I'm not going to agree to that.
 10 What fact are you talking about?

11 Q. I don't know what fact he is going
 12 to find inaccurate.

13 A. I can't speak to the subjective
 14 state of mind of a juror. It depends what
 15 fact you're talking about. I think maybe you
 16 should ask that question again.

17 MR. HARRIS: Can you read it back.
 18 (Record read.)

19 A. It depends on the context. It
 20 depends on what fact it is.

21 Q. Exactly.

22 A. Yes. If I said in my report I
 23 assumed that this transaction took place on
 24 March 28, 1998, in fact, it occurred on March
 25 23rd of 1998, to the naked eye, that would,

35 (Pages 134 to 137)

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<p>1 D. Larue 2 to my mind, indicate that while the factual 3 assumption may not have been 100 percent 4 accurate, it's not substantive insofar it 5 goes to the facts upon which I -- that's not 6 what I relied on in rendering my opinion. It 7 depends on what facts you're talking about.</p> <p>8 Q. So certain facts, if they were 9 inaccurate, could change your opinion, 10 correct?</p> <p>11 A. Certainly. Not all.</p> <p>12 Q. Is it fair to say only you know 13 which facts, if found to be inaccurate, would 14 or would not change your opinion?</p> <p>15 MR. BUTLER: Object to the form.</p> <p>16 A. I don't believe that is fair to 17 say. 18 I believe that the rationale behind 19 the opinions rendered is adequately disclosed 20 or fully disclosed in this report.</p> <p>21 If you understand the rationale 22 behind the opinion, you can see, if you take 23 the time and the effort to look at this 24 report and read it and understand it, 25 admittedly GAAP is extraordinarily complex,</p>	<p>1 D. Larue 2 know what you're referring to when you 3 ask a question. 4 (Record read.) 5 MR. BUTLER: Can you tell me what 6 you were referring to?</p> <p>7 Q. Do you understand my question?</p> <p>8 MR. BUTLER: Are you talking 9 Exhibit 2, paragraph 2, page 2, Roman 10 numeral II?</p> <p>11 Q. Can you answer the question.</p> <p>12 A. What I was asked to do was clearly 13 set forth on page 4 – 3 and 4 and I was not 14 asked to opine as to the -- whether or not 15 L&H's -- I'm trying to remember how you asked 16 the question. I wasn't asked to opine as to 17 whether L&H's accounting was correct.</p> <p>18 Q. That wasn't my question. 19 Is it accurate that you were not 20 asked to express an opinion whether or not 21 L&H's revenue recognition related to the 22 transactions described in your report were 23 improper under then existing GAAP based on 24 the loans made by Artesia?</p> <p>25 A. That's correct.</p>
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<p>1 D. Larue 2 especially as it applies to research and 3 development, but if one were to take the 4 time, you could read the rationale behind my 5 opinion. You could see the facts on which I 6 formulated that opinion and you could make, 7 in some cases, probably a pretty good 8 determination or at least good guess as to 9 what facts might have a bearing on the 10 opinion and what kind of facts might result 11 in a change of that opinion.</p> <p>12 Q. If you look at two, is it fair to 13 say that you were not asked to render an 14 opinion as to whether or not L&H's revenue 15 recognition related to these transactions was 16 improper under then existing GAAP based on 17 the loans made by Artesia?</p> <p>18 MR. BUTLER: What were you 19 referring to? You said based on two.</p> <p>20 A. You mean Roman numeral II on pages 21 3 and 4.</p> <p>22 MR. HARRIS: Can you read the 23 question back.</p> <p>24 MR. BUTLER: I don't know what 25 you're referring. I have a right to</p>	<p>1 D. Larue 2 Q. Have you reached such an opinion? 3 A. No. 4 Q. If you look at paragraph 4-C Roman 5 F-III, you refer to an outside observer. 6 I'm not sure what you mean by an 7 outside observer. 8 A. An opinion as to whether an outside 9 observer could determine L&H's accounting 10 treatment for these transactions based on a 11 review of public filings and press releases. 12 An outside observer who was -- in 13 other words, based on just a review of the 14 public disclosures and based on just a review 15 of the information provided to the SEC, would 16 it have been apparent to someone reviewing 17 those disclosures what L&H's accounting 18 treatment for the Radial LIC and LDF revenues 19 had been. 20 Q. Now, if you look at paragraph 5, 21 you say your understanding of the facts, it 22 really summarizes the assumptions you made, 23 correct, you were asked to make?</p> <p>24 A. My understanding of the facts and 25 circumstances upon which I was asked to rely</p>

<p style="text-align: right;">Page 142</p> <p>1 D. Larue 2 upon, yes. 3 Q. And your understanding, again, is 4 not based on an independent investigation, 5 but based on assumptions you were asked to 6 make? 7 A. That's correct. I did not make an 8 independent investigation, but the facts, to 9 my mind, were not contradicted by any 10 documents I reviewed. 11 Q. It then says, If and when any 12 additional documentation, deposition 13 testimony or other information becomes 14 available to me. 15 What do you mean by available to 16 you? 17 A. As this trial progresses, I assumed 18 there would be additional documentation, 19 additional depositions and other information 20 that may become available to me. 21 Q. But so far, you have had available 22 to you hundreds of depositions, correct? 23 A. I don't know about hundreds of 24 depositions, but I've had available to me in 25 the sense that they're out there and I didn't</p>	<p style="text-align: right;">Page 144</p> <p>1 D. Larue 2 needed to make a change in my assumptions 3 and/or my opinions. 4 Q. Of course, that would be true if 5 somebody handed you something and showed you 6 it was false, you would reevaluate, but the 7 phrase, becomes available to me, you were not 8 suggesting that there were not upwards of a 9 million documents that were available to you 10 prior to the time you reviewed -- you created 11 your report, correct? 12 MR. BUTLER: Objection to form. 13 A. I'm not suggesting that. 14 Q. And now, you then go on to your 15 summary of conclusions and your first 16 conclusion is, Given the uncertainty 17 surrounding the underlying facts and 18 circumstances of the software licensing 19 agreements between L&H and the Language 20 Development Companies at the time of the 21 license fees were recognized as revenue by 22 L&H. 23 Do you see that? 24 A. I do. 25 Q. What uncertainty are you referring</p>
<p style="text-align: right;">Page 143</p> <p>1 D. Larue 2 ask for them. 3 Q. You're not referring to those, are 4 you? 5 A. No. 6 Q. Because you haven't asked for any 7 deposition testimony, correct? 8 A. That's correct. 9 Q. When you say, any additional 10 documentation, you mean any additional 11 documentation that hasn't already been 12 produced in this case because that's already 13 been available to you? 14 MR. BUTLER: Objection to form. 15 A. I wouldn't say that. I would say 16 certainly, old documentation, new 17 documentation, new facts coming to light 18 somewhere along the way, additional 19 documents. 20 Certainly if I found something that 21 indicated one of the factual assumptions on 22 which I based my opinions were incorrect, 23 then I would evaluate that -- my new 24 understanding of the facts based on those 25 documents to determine whether or not I</p>	<p style="text-align: right;">Page 145</p> <p>1 D. Larue 2 to? 3 A. It's just a general statement, it's 4 my impression there was a great deal of 5 uncertainty as to the underlying facts and 6 circumstances that may have been relevant in 7 reaching an accounting conclusion. 8 Q. You're not suggesting that the 9 facts and circumstances were not known, are 10 you? 11 MR. BUTLER: Objection. 12 Known to who? 13 MR. HARRIS: I will ask that next 14 question. 15 A. I certainly am suggesting that not 16 all facts were known to all parties. 17 Q. We know that the true facts weren't 18 provided to the investors in L&H, everybody 19 knows that, that's why we're here. 20 MR. BUTLER: Objection. You may 21 think you're being funny, but it's not 22 that humorous. 23 Q. As used here, who are you saying 24 was uncertain about the facts and 25 circumstances of the licensing agreements?</p>

<p style="text-align: right;">Page 146</p> <p>1 D. Larue 2 MR. BUTLER: Can I hear the 3 question again, please. 4 (Record read.) 5 MR. BUTLER: Objection to form. 6 A. I will answer the question again, 7 and that is that I believe that all of the 8 facts and circumstances were not known to all 9 of the parties. I don't know who knew what, 10 but I certainly do have an impression that 11 there were a lot of facts that were unknown 12 to various parties or various -- I won't say 13 parties, but just in general, people involved 14 in some way or form or fashion with these 15 transactions. 16 Q. Let me do it this way: Was Dexia 17 uncertain about the facts and circumstances 18 of the software licensing agreements between 19 L&H and the Language Development Companies? 20 MR. BUTLER: Objection to form. 21 A. What facts? 22 Q. What facts you're referring to. 23 A. I'm sure -- first of all, who at 24 Dexia and at what point in time are you 25 referring to?</p>	<p style="text-align: right;">Page 148</p> <p>1 D. Larue 2 fees. 3 MR. BUTLER: Pardon me, I 4 misunderstood. 5 Q. At the time the licensing fees were 6 recognized by L&H, was L&H uncertain 7 regarding the underlying facts and 8 circumstances of the software licensing 9 agreement between L&H and the Language 10 Development Companies? 11 MR. BUTLER: Objection to form. 12 A. I don't know who at L&H. Who do you 13 mean, L&H? L&H can't have an awareness, 14 people at L&H, the CFO, the accountants, 15 members of the board of directors? Who are 16 you referring to at L&H? 17 Q. Who were you referring to as being 18 uncertain? 19 A. I'm referring to just in general, 20 there seemed to be a lot of facts and 21 circumstances that parties were not aware of 22 at the time these fees were recognized as 23 revenue that may have had a bearing on the 24 accounting for that revenue. 25 Q. And who — was Mr. Lernout</p>
<p style="text-align: right;">Page 147</p> <p>1 D. Larue 2 Q. This is your conclusion, correct? 3 A. Yes. 4 Q. This is your opinion. 5 What facts and circumstances are 6 you referring to in the first line of 7 paragraph 6 of your report? 8 A. The facts and circumstances at the 9 time the license fees were recognized as 10 revenue. 11 Q. What facts and circumstances? 12 A. The facts and circumstances. 13 Q. Okay. Which facts and which 14 circumstances? 15 A. Just in general. 16 Q. Just in general. Okay. 17 MR. BUTLER: He is asking you to 18 clarify your question. That wasn't his 19 answer. 20 Am I right, were you asking if you 21 wanted a general answer? 22 THE WITNESS: I was. 23 Facts and circumstances in general 24 that may have had a bearing on the 25 accounting treatment of these license</p>	<p style="text-align: right;">Page 149</p> <p>1 D. Larue 2 uncertain about the facts and circumstances 3 of the software licensing agreements between 4 L&H and the Language Development Companies? 5 MR. BUTLER: Objection to form. 6 A. How would I know that; A, how would 7 I know that and; B, what facts and 8 circumstances are you referring to that he 9 may have been uncertain about? That's a 10 question I can't answer. 11 Q. What did you use? 12 A. I don't know what facts and 13 circumstances Mr. Lernout was aware of at the 14 time these fees were recognized by L&H. 15 Q. So it's fair to say you don't know 16 whether or not Mr. Lernout had any 17 uncertainty relying the underlying facts and 18 circumstances? 19 A. I don't know that. I don't know 20 what he thought, what he knew. 21 Q. Do you know if anyone at Dexia was 22 uncertain about the underlying facts and 23 circumstances of the software licensing 24 agreements between L&H and the Language 25 Development Companies at the time the license</p>

<p style="text-align: right;">Page 150</p> <p>1 D. Larue 2 fees were recognized as revenue by L&H? 3 A. I had a sense there were a lot of 4 relevant facts that -- again, who at Dexia 5 are you referring to? 6 Q. Anyone. This is your conclusion. 7 MR. BUTLER: I'll object to the 8 form. He said his conclusion is not 9 about the mental states, not about any 10 individual. 11 You can continue to question him 12 about that, though. 13 Q. Is it fair to say that you are 14 talking about whether or not the recognition 15 of these fees as revenue was clearly improper 16 under GAAP in paragraph 6? 17 A. I'm talking about whether or not it 18 was clearly improper under GAAP. 19 Q. And it is true, is it not, that 20 uncertainty by certain people about the facts 21 and circumstances has absolutely no bearing 22 on whether or not the recognition was clearly 23 improper under GAAP, correct? 24 A. I don't really understand your 25 question.</p>	<p style="text-align: right;">Page 152</p> <p>1 D. Larue 2 Q. What I'm asking is, whose 3 uncertainty mattered to you in reaching your 4 conclusion set forth in paragraph 6 of your 5 report? 6 MR. BUTLER: Objection to form. 7 A. I guess it depends on -- in my 8 opinion -- clearly improper to whom? 9 Q. Under GAAP. 10 A. Insofar as the uncertainty 11 surrounding the underlying facts and 12 circumstances, would L&H's revenue 13 recognition had been clearly improper to 14 another observer. 15 Q. So this is not -- your opinion is 16 not whether or not it was clearly improper 17 under GAAP, but it was clearly improper under 18 GAAP to another person, an outside observer? 19 MR. BUTLER: Objection to form. 20 A. Was it clearly improper based on -- 21 excuse me. 22 The information that seems to have 23 been available at the time given the 24 uncertainty of all these different things 25 that I've listed here in this paragraph, was</p>
<p style="text-align: right;">Page 151</p> <p>1 D. Larue 2 Q. It doesn't matter if in 1999, I was 3 uncertain about the underlying facts and 4 circumstances, that would have no bearing on 5 whether or not the recognition of revenue was 6 clearly improper under GAAP, is that correct? 7 A. That's correct. 8 Q. There are only certain parties or 9 persons whose uncertainty would matter with 10 regard to the determination as to whether or 11 not the recognition of these fees were 12 clearly improper under GAAP would be 13 relevant, correct? 14 A. I'm still not following you. 15 Given the uncertainty surrounding 16 the underlying facts and circumstances of the 17 software agreements between L&H, and it goes 18 on and then it concludes, L&H's recognition 19 of these fees as revenue in 1999 -- 1998 and 20 '99 did not, in my opinion, make L&H's 21 recognition of these revenues clearly 22 improper under GAAP. 23 Q. In reaching that conclusion, you 24 focused on uncertainty, correct? 25 A. That's correct.</p>	<p style="text-align: right;">Page 153</p> <p>1 D. Larue 2 their revenue recognition clearly improper 3 under GAAP and I opined that it was not 4 clearly improper. 5 Q. I understand that. 6 A. It was not apparent to the naked 7 eye that the accounting for these revenues 8 was clearly improper. 9 Q. When you say, the naked eye, the 10 naked eye of whom? 11 A. Possibly of anybody. 12 Q. Right. Not limited to KPMG, right, 13 your opinion is not limited to KPMG? 14 MR. BUTLER: Objection to form. 15 Go ahead. 16 A. I don't refer to KPMG in this 17 paragraph, in this opinion. 18 Q. You are saying that -- let me just 19 make sure I understand what you're saying in 20 paragraph 6. 21 You're saying in paragraph 6, that 22 an outside observer could not tell whether or 23 not the accounting for -- strike all of that. 24 Let me start over. 25 It is correct, is it not, that in</p>

<p style="text-align: right;">Page 154</p> <p>1 D. Larue 2 paragraph 6, you were opining that it would 3 not be clearly improper -- let me try again. 4 Sometimes I can't ask a right question. 5 It is correct, is it not, that in 6 paragraph 6, you were opining that it would 7 not be apparent to an outside observer that 8 L&H's recognition of these fees as revenue in 9 1998 and 1999 was clearly improper under 10 GAAP, correct? 11 A. It would not have been apparent to 12 an outside observer, depending on what you 13 mean by outside observer, but certainly it 14 would not be apparent to an outside observer 15 that this revenue was necessarily even 16 recognized, let alone proper under GAAP. 17 Q. Have I captured the entirety of 18 your opinion in paragraph 6? 19 MR. BUTLER: Objection to form. 20 A. No, I don't believe so. I believe 21 that depending upon what party you're looking 22 at, that there may not have been enough facts 23 and circumstances -- there was uncertainty in 24 the facts and circumstances that you would 25 need to make or need to understand in order</p>	<p style="text-align: right;">Page 156</p> <p>1 D. Larue 2 Q. In paragraph 6, are you opining 3 that as an objective matter, L&H's 4 recognition of these fees as revenue in 1998 5 and 1999 were or were not clearly improper 6 under GAAP? 7 MR. BUTLER: Objection to form. 8 A. I'm having trouble with the word 9 objective that you used. I will try to give 10 you the answer. 11 The ultimate determination as to 12 whether or not those revenues were proper 13 would, in some respects, involve a subjective 14 evaluation of the underlying facts and 15 circumstances and would involve, for example, 16 also possibly a substantive evaluation of 17 certain terms and standards that might be 18 applicable under GAAP, so there would be a 19 subjective element. 20 What I'm saying is that there was 21 no objective basis based on all of these 22 factors that I've indicated in this report or 23 in this paragraph to make a determination 24 that revenue recognition was clearly 25 improper.</p>
<p style="text-align: right;">Page 155</p> <p>1 D. Larue 2 to be able to apply GAAP and determine 3 whether or not or render an opinion whether 4 revenue recognition was appropriate. 5 Q. And -- 6 MR. HARRIS: Can you read that 7 back. 8 (Record read.) 9 Q. In paragraph 6, are you expressing 10 an opinion as to whether or not, as an 11 objective manner, the manner in which L&H 12 accounted for the transactions reflected in 13 your report was clearly improper? 14 A. To an outside observer, is that 15 what you just said? 16 Q. No. 17 A. Well, to an observer who didn't 18 have an understanding of the facts and 19 circumstances that were relevant in 20 determining how those licensing fees should 21 be reported. 22 Q. Let me repeat my question because I 23 think you may have lost it. 24 MR. BUTLER: Just give me chance to 25 object.</p>	<p style="text-align: right;">Page 157</p> <p>1 D. Larue 2 Q. For who to make that determination? 3 MR. BUTLER: Objection to form. 4 The witness already testified -- he is 5 not testifying about what any particular 6 person believed at the time. 7 A. Again, there is a fair amount of 8 subjectivity in the application of some of 9 these GAAP rules, substance over form, 10 presumptions, reasonableness, probability, 11 there are some terms used in the relevant 12 GAAP that required a subjective evaluation of 13 all of the underlying facts and 14 circumstances, so I don't believe that 15 necessarily you're going to find two people who 16 objectively reviewed the same facts and 17 circumstances necessarily coming up with the 18 same conclusion. 19 Q. From what you've just said, it 20 seems as though that in your accounting 21 classes, there are no right or wrong answers, 22 is that correct? 23 MR. BUTLER: Objection to form. 24 A. Absolutely not. 25 Q. Absolutely not?</p>

<p style="text-align: right;">Page 158</p> <p>1 D. Larue 2 A. Absolutely, that is not a correct 3 statement. 4 There are a great many questions to 5 which there are definitive answers and 6 objective parties looking at the same facts 7 and circumstances can apply the same 8 unambiguous rules and come up with the same 9 result pretty much spot on every time, but 10 there are a great many. GAAP is very 11 complicated.</p> <p>12 In many cases, it involves a 13 subjective evaluation of facts and 14 circumstances that the evaluator believes to 15 be relevant, another evaluator may not 16 believe to be relevant and an analysis of 17 those facts and circumstances and how they 18 interface with one another, what is the 19 relative weight of this factor versus the 20 relative weight of this factor and at the end 21 of the day, you end up with an opinion that 22 has large subjective elements. That is 23 certainly not always the case.</p> <p>24 There are oftentimes, probably more 25 often than not, I don't know, there are</p>	<p style="text-align: right;">Page 160</p> <p>1 D. Larue 2 licensing fee were recognized as revenue by 3 L&H, correct, and it's given the uncertainty, 4 correct? 5 A. Given the uncertainty and the three 6 other -- 7 Q. Right. The uncertainty, is that 8 your opinion, is it a statement of fact or is 9 it an assumption of fact? 10 A. I'm sorry. In part, it's an 11 assumption of fact. 12 Q. You say, in part. 13 What else is it? 14 A. Well, in part, it's not knowing how 15 things were going to pan out, but the facts, 16 for example, it's my understanding that, you 17 know, the guarantees weren't entered into 18 until later on in the following year, so at 19 the time this was reported as revenue, the 20 facts were uncertain as to what extent there 21 was an obligation or that -- or to what 22 extent those guarantees would ultimately be 23 entered into, in other words, at the time we 24 recognized -- at the time the revenue was 25 recognized, there were some facts that were</p>
<p style="text-align: right;">Page 159</p> <p>1 D. Larue 2 definitive answers to many definitive 3 questions, but that is not always the case 4 and it certainly was not the case here. 5 Q. Now, coming back to the 6 uncertainty, do you have any facts to suggest 7 that there was any uncertainty at L&H 8 regarding the underlying -- let me do this. 9 In paragraph 6, after the word 10 given, there are parentheticals numbered one 11 through four. There are then what appear to 12 be statements of fact, correct? 13 MR. BUTLER: Objection to form. I 14 don't understand your question. 15 Q. Well -- 16 MR. BUTLER: If you understand, 17 sir, you can answer. 18 A. The fact that the license fees 19 received from Radial, LIC and LDF were paid 20 from the proceeds, yes, that's -- 21 Q. No, it says given one, that the 22 uncertainty surrounding the underlying facts 23 and circumstances of the software licensing 24 agreements between L&H and Language 25 Development Companies at the time of the</p>	<p style="text-align: right;">Page 161</p> <p>1 D. Larue 2 uncertain because they were based on future 3 events. 4 Q. So it is -- the uncertainty there 5 that you were referring to are factual 6 assumptions and uncertainty as to the future, 7 correct? 8 MR. BUTLER: Objection to form. 9 A. I think that's correct. 10 Q. And what is it when you assume that 11 there was uncertainty surrounding the 12 underlying facts and circumstances, who is it 13 that you are assuming had any uncertainty? 14 MR. BUTLER: Objection to form. 15 A. Well, again, the word uncertainty 16 really has two dimensions; one, who knew what 17 when and the other, subjectively, how would 18 you evaluate those facts, how do you 19 interpret those facts and circumstances, what 20 do they mean? 21 Q. Was that No. 4? 22 MR. BUTLER: Maybe your question 23 wasn't clear, you're asking only about 24 point 1 and not about the paragraph 6 25 generally?</p>

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<p>1 D. Larue</p> <p>2 MR. HARRIS: Correct. He uses</p> <p>3 uncertainty three times and subjectivity</p> <p>4 one time. I'm asking about his use of</p> <p>5 the word subjectivity, two words after</p> <p>6 the one in parenthesis in paragraph 6.</p> <p>7 A. Have I not answered that question?</p> <p>8 Q. Well, I think -- you said -- does</p> <p>9 uncertainty there include subjective</p> <p>10 evaluation?</p> <p>11 A. Well, certainly to some extent.</p> <p>12 How would you interpret these facts</p> <p>13 and circumstances, what facts and</p> <p>14 circumstances are relevant?</p> <p>15 Q. And when you say given the</p> <p>16 uncertainty, among who?</p> <p>17 MR. BUTLER: Objection. Form.</p> <p>18 A. Any party that didn't have an</p> <p>19 understanding of all of the relevant facts</p> <p>20 and circumstances.</p> <p>21 Q. Well, who is responsible for a</p> <p>22 party's financial statement?</p> <p>23 A. Management with the oversight of</p> <p>24 the audit committee and the approval of the</p> <p>25 board of directors and, obviously, the</p>	<p>1 D. Larue</p> <p>2 inside the organization.</p> <p>3 Q. That's my question. Were you</p> <p>4 assuming that they were uncertain?</p> <p>5 A. Not necessarily.</p> <p>6 Q. So the uncertainty here does not</p> <p>7 refer to the management of L&H, in No. 1?</p> <p>8 A. The management being who? It</p> <p>9 doesn't necessarily refer specifically to</p> <p>10 management or individuals within management.</p> <p>11 Q. Does the uncertainty in No. 1 refer</p> <p>12 to the audit committee of L&H?</p> <p>13 A. It could.</p> <p>14 Q. I didn't ask if it could. I asked</p> <p>15 if it does?</p> <p>16 A. I don't know what the audit</p> <p>17 committee did or did not know.</p> <p>18 Q. I understand that.</p> <p>19 A. It's my understanding that the</p> <p>20 specific details of a lot of the different</p> <p>21 aspects of these transactions were generally</p> <p>22 unknown by various participants.</p> <p>23 Q. Who was the audit committee?</p> <p>24 A. Who were the members of the audit</p> <p>25 committee?</p>
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<p>1 D. Larue</p> <p>2 external auditor is responsible for</p> <p>3 conducting an audit designed to provide</p> <p>4 reasonable assurance that the financial</p> <p>5 statements are fairly presented in every</p> <p>6 material respect in accordance with U.S.</p> <p>7 GAAP.</p> <p>8 Q. So we have identified four points,</p> <p>9 management, audit committee, board of</p> <p>10 directors, outside auditors?</p> <p>11 A. That's correct.</p> <p>12 Q. Are you assuming here that the</p> <p>13 management of L&H was uncertain regarding the</p> <p>14 underlying facts and circumstances of the</p> <p>15 software licensing agreements between L&H and</p> <p>16 the Language Development Companies at the</p> <p>17 time the license fees were recognized as</p> <p>18 revenue by L&H?</p> <p>19 A. I don't know what management knew</p> <p>20 or didn't know.</p> <p>21 Q. My question is, are you -- in</p> <p>22 reaching your conclusion, did you assume that</p> <p>23 management was uncertain?</p> <p>24 A. I don't know if management was</p> <p>25 uncertain or not. I don't know who knew what</p>	<p>1 D. Larue</p> <p>2 Q. Yes.</p> <p>3 A. I don't know.</p> <p>4 Q. What did they know about the facts</p> <p>5 and circumstances?</p> <p>6 A. I don't know.</p> <p>7 Q. So you don't know if they were</p> <p>8 uncertain or not?</p> <p>9 A. From their vantage point, I don't</p> <p>10 know if there was uncertainty from their</p> <p>11 point.</p> <p>12 Q. Who was the management at L&H?</p> <p>13 A. There were a number of individuals.</p> <p>14 Q. Were they uncertain about the facts</p> <p>15 and circumstances of the software licensing</p> <p>16 agreement?</p> <p>17 A. They may have been, they may not</p> <p>18 have been.</p> <p>19 Q. You don't know?</p> <p>20 A. I don't know.</p> <p>21 Q. Was the board of directors</p> <p>22 uncertain about the facts and</p> <p>23 circumstances -- was the board of directors</p> <p>24 of L&H uncertain about the underlying facts</p> <p>25 and circumstances of the software licensing</p>

42 (Pages 162 to 165)

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<p>1 D. Larue 2 agreements between L&H and the Language 3 Development Companies? 4 A. I don't know. 5 Q. Was KPMG uncertain surrounding the 6 underlying -- did they have any uncertainty 7 surrounding the underlying facts and 8 circumstances of the software licensing 9 agreement between L&H and the Language 10 Development Companies? 11 A. Again, you would have to specify 12 who at KPMG, but as a general proposition, I 13 had the impression that there were facts 14 unknown to them at the time these revenues 15 were recognized and there after, sometime 16 thereafter. 17 Q. Who were the individuals at KPMG 18 that were responsible for auditing Lernout 19 and Hauspie? 20 A. I don't know. As a general 21 statement, I think they were unfamiliar with 22 a lot of the relevant facts. 23 Q. You don't know anyone? 24 A. Again, I can't opine as to what any 25 particular individual knew or didn't know,</p>	<p>1 D. Larue 2 to Messrs. Hauspie and Willard? 3 A. What individuals? 4 Q. Yes. 5 A. I don't know. 6 Q. Did they have any uncertainty 7 regarding the underlying facts and 8 circumstances of the software licensing 9 agreements between L&H and the Language 10 Development Companies at the time they made 11 the loan? 12 A. My impression is that they did. 13 Q. Based on what? 14 A. My impression is that they did, 15 that all of these facts were not known. You 16 asked me, my impression is yes. 17 Q. I asked what your impression is 18 based on. 19 A. Can I point to specific documents 20 that tell me what facts and circumstances 21 they knew or did not know and which members 22 of a committee may have known or not known 23 those facts? I can't comprehensively do 24 that. 25 Q. Now, if the -- we go through, you</p>
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<p>1 D. Larue 2 but I have the impression that they were 3 uncertain about enough of the key facts in 4 terms of these arrangements at the time the 5 revenues were recognized and that's borne out 6 by some of the statements in the audit work 7 papers that I've addressed later. 8 Q. Was Dexia -- was anyone at Dexia 9 uncertain about the underlying fact and 10 circumstances? 11 A. Was anyone at Dexia uncertain? 12 I'm sure there were people at Dexia 13 who were uncertain about the underlying facts 14 and circumstances. 15 Q. Who authorized the loans by Dexia 16 to the LDCs? 17 MR. BUTLER: Objection to form. 18 There were no loans to the LDCs. 19 A. There were no loans to the LDCs. 20 Q. Now that you've been coached by 21 your -- 22 MR. BUTLER: I don't think you 23 meant to say this. You mean Lernout, 24 Hauspie. 25 Q. Who authorized the \$20 million loan</p>	<p>1 D. Larue 2 say the uncertainty surrounding the nature 3 and extent of the relationship between the 4 LDCs and L&H and Messrs. Lernout, Hauspie and 5 Willard, right? 6 Again, is uncertainty there an 7 assumption, a statement of fact or an 8 opinion? 9 A. It's an assumption supported, for 10 example, in the audit committee report. 11 Q. Okay. And when you say 12 uncertainty, it is an assumption, it assumes 13 who was uncertain? 14 MR. BUTLER: Objection to form. 15 A. It's a general reference to the 16 fact that the relationship between L&H and 17 the LDCs and these three individuals, the 18 full extent of the relationship and the 19 nature of the relationship does not appear to 20 have been known by various parties. 21 Q. But by whom, who is it important to 22 your conclusion that it not be known to? 23 MR. BUTLER: Objection to form. 24 A. I suppose KPMG. 25 Q. Anyone else?</p>

<p style="text-align: right;">Page 170</p> <p>1 D. Larue 2 A. Artesia. 3 Q. What is the basis for your 4 statement that Artesia was uncertain about 5 the nature and extent of the relationship 6 between LDCs and L&H and Messrs. Lernout, 7 Hauspie and Willard? 8 A. Again, that's my general 9 understanding as confirmed to the extent that 10 it is addressed in the audit committee 11 report. 12 Q. Artesia or Dexia certainly knew 13 that Lernout, Hauspie and Willard had entered 14 into credit default swaps with regard to 15 loans with regard to Radial and LIC, correct? 16 A. Presumably there were people at 17 Dexia who approved those transactions, who 18 knew of those transactions. 19 Q. And Dexia knew that it had loaned 20 \$20 million to Lernout, Hauspie and Willard 21 to fund certain LDCs, correct? 22 A. I don't know that. 23 Q. You don't know that? 24 A. No. 25 Q. Do you know that they didn't know</p>	<p style="text-align: right;">Page 172</p> <p>1 D. Larue 2 account for various transactions? 3 A. If KPMG was uncertain as to how to 4 account for various transactions, could you 5 be more specific? 6 Q. You identified certain transactions 7 as these transactions. 8 A. Correct. 9 Q. Is there -- is there anything that 10 suggests that KPMG had any uncertainty or 11 lack of definitive guidance available to it 12 under GAAP to account for these transactions? 13 A. At the time the revenues were 14 recognized? 15 Q. Yes. 16 A. I don't know what level of 17 uncertainty or certainty went into the 18 judgment as to whether or not the accounting 19 treatment of these fees -- the fees were 20 apparently recorded as revenue. 21 KPMG apparently reviewed the 22 recording of those revenues and management's 23 policy in implementing SOP 97-2 and performed 24 whatever audit procedures they felt necessary 25 to gain reasonable assurance that the</p>
<p style="text-align: right;">Page 171</p> <p>1 D. Larue 2 it? 3 A. No, I know that the loan -- I 4 assumed that loan was made, but I don't know 5 what or who at Dexia knew how the proceeds 6 had been used. 7 Q. And you don't know whether they had 8 any uncertainty about how it was going to be 9 used, correct? 10 A. Again, you're referring to a 11 specific individual or Dexia in general? I 12 had the impression that there was 13 uncertainty. 14 Q. That is based on? 15 A. It's an impression that I have. 16 Q. An impression? 17 A. Yes. 18 Q. In three, it says, The uncertainty 19 and lack of definitive guidance available 20 under GAAP, is that a statement of fact, an 21 opinion or an assumption? 22 A. That's a statement of fact. 23 Q. Is there anything that you have 24 come across that suggests that KPMG was 25 uncertain as to the proper manner in which to</p>	<p style="text-align: right;">Page 173</p> <p>1 D. Larue 2 recording of those revenues was proper. 3 Whatever uncertainty they may have 4 had they resolved apparently in favor of 5 letting the recognition of revenues stand. 6 Q. Okay. 7 A. Apparently it was not clearly 8 improper to them. 9 Q. You said they were uncertain about 10 the facts? 11 MR. BUTLER: Objection to form. 12 A. It's my understanding they were 13 uncertain about the facts, in terms of they 14 didn't have all of the facts available to 15 them. 16 Q. So based on the fact, it's your 17 view that based on the facts available to 18 KPMG, their view that the manner for the 19 accounting was not clearly improper, correct? 20 MR. BUTLER: Objection to form. 21 A. Assuming these amounts were 22 reported as revenues in the financial 23 statements, assuming KPMG reviewed the 24 accounting treatment of those fees, one would 25 infer from that, that they ultimately</p>

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<p style="text-align: right;">Page 174</p> <p>1 D. Larue 2 concluded that the recording of that revenue 3 was not clearly improper. 4 Q. Based on what was known to them? 5 MR. BUTLER: Objection. 6 A. Based on a lot of things, what was 7 known to them, their understanding of GAAP, 8 the application of GAAP to the underlying 9 facts and circumstances, based on all these 10 things, you separated out these comments when 11 they really roll into each other. There were 12 a variety of things that to my mind allowed 13 me to render this opinion. 14 Q. I understand that. I'm not the one 15 who separated them, you did. 16 A. Yeah. They're part of the same 17 paragraph. These are all reasons why. Any 18 one of those reasons. 19 THE VIDEOGRAPHER: We're going off 20 the record at 1:29. This is the end of 21 tape No. 2. 22 (Luncheon recess taken at 1:29 23 p.m.)</p>	<p style="text-align: right;">Page 176</p> <p>1 D. Larue 2 do you understand it? 3 A. Well, I assumed one of the factual 4 assumptions I made was that L&H did, in fact, 5 recognize these fees as revenue in 1998 and 6 in 1999. 7 Q. So I guess my question is, is your 8 conclusion that it did not make L&H's 9 recognition of these fees as revenue in 1998 10 and 1999 clearly improper under GAAP, limited 11 to the time in which -- to the time at which 12 it was actually recognized as revenue? 13 A. Yes. 14 Q. And it is fair to say that you have 15 not -- you have not expressed an opinion in 16 either of your reports as to whether it was 17 clearly improper for L&H to not restate its 18 financials with regard to the transactions 19 that you have assumed in your report? 20 MR. BUTLER: Objection to form. 21 A. It's the double negative that's 22 getting me, clearly improper not to restate. 23 Q. That's exactly in your conclusion 24 and it is -- I'm trying to follow your 25 conclusion where you use the not and clearly</p>
<p style="text-align: right;">Page 175</p> <p>1 D. Larue 2 AFTERNOON SESSION 3 (Time noted: 2:01 p.m.) 4 DAVID LARUE, resumed and 5 testified as follows: 6 THE VIDEOGRAPHER: We're going back 7 on the record. The time is 2:01 and 8 this is tape No. 3. 9 EXAMINATION BY (Cont'd.) 10 MR. HARRIS: 11 Q. Mr. Larue, we were looking at 12 paragraph 6 of your report, which I believe 13 sets forth your first conclusion, correct? 14 A. Yes, that's a summary of 15 conclusions. 16 Q. And you there indicate in -- you 17 use the phrase in paragraph 6, at the time 18 the license fees were recognized as revenue 19 by L&H, correct? 20 A. Yes. 21 Q. I see that that is in one of the 22 givens, but is that a part of your conclusion 23 at the end? 24 And if you didn't understand that 25 question, I'm happy to try to explain it, but</p>	<p style="text-align: right;">Page 177</p> <p>1 D. Larue 2 improper. 3 A. By golly, I do. I'm sorry about 4 that. I'm guilty -- this opinion relates to 5 the recognition of revenue on the assumption 6 that that revenue was recognized from these 7 LDCs in 1998, I believe, as alleged and in 8 1999. 9 Q. And when you say in 1999, when you 10 say recognized as revenue, are you referring 11 to calendar year 1999 as the time period in 12 which it was recognized or are you referring 13 to the time in which L&H's 1999 financial 14 statements were issued to the public or some 15 other time? 16 A. I believe this revenue -- the 17 factual assumption that I made was that the 18 revenue was recognized and reported in the 19 quarterly press releases, as well as in 20 the -- as well as in the financial statements 21 for that year. 22 Ultimately, you know, the final 23 decision in terms of whether or not to 24 recognize revenue doesn't necessarily take 25 place until it either is or isn't recognized</p>

<p style="text-align: right;">Page 178</p> <p>1 D. Larue 2 as revenue in the financial statement. 3 Q. I'm trying to focus in on the 4 phrase, at the time the license fees were 5 recognized as revenue by L&H. 6 What time did you mean by that? 7 A. At the time it was recognized as 8 revenue and then reported out. 9 Q. And then reported out. 10 So that would be with regard to 11 1999, sometime in 2000? 12 A. No. Well, it was recognized on the 13 financial statements or the filings with the 14 SEC with the financial statements for the 15 year 1999, but I believe it was also included 16 in the quarterly results that were reported 17 out during the year for the quarters. 18 Q. So you are not -- you are talking 19 about the time in which it is first 20 recognized and first reported? 21 A. That's correct. 22 Q. And you are not identifying any -- 23 you are not opining as to whether or not any 24 actions subsequent to that date with regard 25 to that reported revenue was clearly</p>	<p style="text-align: right;">Page 180</p> <p>1 D. Larue 2 has an opportunity to either restate or not 3 restate its financials once it knows what has 4 happened, correct? 5 MR. BUTLER: Objection to form. 6 A. It does have that opportunity. 7 Q. And when you had identified the 8 uncertainty about whether or not a loan would 9 actually occur or not occur, you assume at 10 some point, in fact, it did occur, correct? 11 MR. BUTLER: Objection to form. 12 A. My understanding is that the loan 13 did occur, the loans did occur in 1998 and 14 1999. 15 I'm not sure I follow you. 16 Q. You had said when I asked you what 17 uncertainty was in subparagraph 1 of 18 paragraph 6 of your report, you said the 19 uncertainty about what would happen in the 20 future, you said there was an expectation a 21 loan would be made, but you didn't know 22 whether or not, in fact, a loan would be 23 made, so there was that uncertainty at the 24 time that L&H recognized as revenue the 25 amounts from the LDC, correct?</p>
<p style="text-align: right;">Page 179</p> <p>1 D. Larue 2 improper, correct? 3 MR. BUTLER: Object to the form. 4 A. I think that's correct, yes. 5 Q. And so you are not opining as to 6 whether L&H should or should not have 7 restated its financials with regard to these 8 transactions at some point in the future, 9 correct? 10 A. I'm not opining on that. 11 Q. And you're not opining as to 12 whether or not L&H's failure to do so prior 13 to June 1, 2000 was or was not clearly 14 improper, correct. 15 A. I'm not opining on that. It seems 16 that's an ongoing issue. If you reported 17 revenue that you shouldn't have reported, 18 then it should be corrected at some point in 19 time. 20 Q. You talked about the uncertainty 21 and the uncertainty was about what some 22 things would happen in the future, correct? 23 A. Yes, that's part of the 24 uncertainty. 25 Q. And once that happens, the company</p>	<p style="text-align: right;">Page 181</p> <p>1 D. Larue 2 MR. BUTLER: Objection to form. 3 A. I don't think I said there was 4 uncertainty about the loan being made. 5 Q. What uncertainty was there about 6 the future then? 7 A. I think one of the uncertainty I 8 referred to earlier was it's my understanding 9 that the loan was made, but at the time the 10 funds were disbursed, the guarantees or the 11 CDSs had not been finalized or contemplated, 12 whatever. 13 Q. You do assume that after the 14 revenue was recognized, the CDSs were, in 15 fact, issued and formalized and put into 16 place, correct? 17 A. Yes. 18 Q. And so my question is, you are not 19 opining whether or not once that, quote, 20 uncertainty about the future was cleared up, 21 L&H should or should not have restated its 22 financials, correct? 23 A. I believe that's correct. 24 Q. And trying to avoid the double 25 negative, you are not opining whether L&H's</p>

<p style="text-align: right;">Page 182</p> <p>1 D. Larue 2 failure to restate its financials with regard 3 to the LDCs prior to June 1, 2000 was or was 4 not clearly improper, correct? 5 MR. BUTLER: Objection to form. 6 A. That's beyond the scope of the 7 opinion expressed in this summary. 8 Q. Is it beyond the scope of the 9 opinion expressed in the report and the 10 rebuttal report? 11 A. Verify that for me again. Was it 12 clearly improper -- I'm just not following 13 what you were saying, I'm trying, but I'm 14 just not following that. 15 Q. Some of this revenue was recognized 16 in 1998, correct? 17 A. Yes. 18 Q. You are not offering an opinion 19 whether or not L&H's failure to make 20 adjustments with regard to that revenue 21 recognized in 1998 some point thereafter, but 22 prior to June 1, 2000, was or was not clearly 23 improper? 24 MR. BUTLER: Objection to form. 25 A. This opinion is limited to the time</p>	<p style="text-align: right;">Page 184</p> <p>1 D. Larue 2 considered to be related parties, but not 3 related parties under common control, FAS 57 4 would have required disclosure of the loans 5 made by Lernout, Hauspie and Willard to the 6 LDF LDCs, but L&H would not have been 7 required to defer their recognition of 8 revenue and then in 119, disclosure by L&H of 9 this loan to the LDH LDCs would have appeared 10 to be required under the SEC regulations. 11 Q. Did L&H disclose the loan in its 12 financial statements prior to June 1, 2000? 13 MR. BUTLER: Objection to form. 14 A. They didn't disclose the details of 15 the loan, no. 16 Q. Did they disclose in the manner 17 that you say would also appear to have been 18 required? 19 A. I don't believe they did, no. 20 Q. Is it your opinion that the failure 21 to disclose this loan to LDF LDCs was 22 improper? 23 A. If they were considered to be 24 related parties, then my interpretation of 25 that regulation is that it seems to require</p>
<p style="text-align: right;">Page 183</p> <p>1 D. Larue 2 period when the revenue was recognized and 3 reported originally. 4 Q. When you say, this opinion, the 5 opinion in your report and rebuttal report, 6 correct? 7 A. That's correct. 8 Q. Is there any opinion in your report 9 or your rebuttal report as to whether or not 10 L&H's failure to disclose the transactions 11 that are described in your reports as related 12 parties clearly improper? 13 A. There is an opinion. 14 Q. There is? Where is that? 15 A. Again, what we've been looking at 16 are summary opinions. The opinions are 17 elaborated more fully in section 4 of my 18 report. I know it's in here. I'm looking at 19 paragraphs 110 through 112 on page 34 and 117 20 through 119. 21 Q. So as I read those opinions, it is 22 your opinion that L&H should have disclosed 23 the loans to the LDF LDCs? 24 A. Paragraph 118 referring to the LDF 25 LDCs states that if LDF LDCs, if they were</p>	<p style="text-align: right;">Page 185</p> <p>1 D. Larue 2 disclosure. 3 Q. Do you have an opinion as to 4 whether or not L&H and the LDF LDCs were 5 related parties? 6 A. I believe I expressed that opinion. 7 In paragraphs 115 and 116, it seems clear 8 that a loan of the proceeds from the LHW 9 personal loan to the LDF LDCs would not, in 10 and of itself, make L&H and the LDF LDCs and 11 related parties under FAS 57, and I go on to 12 explain why that is. 13 Q. Sure. 14 A. And then in 116, L&H and the LDCs 15 may have been related parties if Lernout, 16 Hauspie and Willard received or held a 17 substantial equity interest in the LDF LDCs. 18 Actually, back in 115, that last 19 sentence, For accounting purposes, for a loan 20 to make L&H a related party to LDF and the 21 LDF LDCs the loan would have had to give L&H 22 or parties controlling L&H control or 23 significant influence over the entities -- 24 over these entities such that these entities 25 might have been prevented from pursuing their</p>

<p style="text-align: right;">Page 186</p> <p>1 D. Larue 2 own separate interests from L&H. 3 Q. I see that, but my question was a 4 little different. 5 Do you have an opinion as to 6 whether or not L&H and the LDF LDCs were 7 related parties? 8 MR. BUTLER: Objection. Asked and 9 answered. 10 You can answer it again. 11 A. No, I don't. The reason I don't is 12 because I don't have the kind of information 13 that I would need to determine whether or not 14 there was significant influence as required 15 under FAS 57. 16 Q. And it flows from that that you do 17 not have an opinion as to whether or not 18 L&H's failure to disclose its relationship 19 with the LDF LDCs was clearly improper? 20 A. It's not clearly improper from the 21 information that I have available to me and 22 I've indicated that here. L&H and the LDCs 23 may have been related parties. 24 Q. But you don't have -- you are not 25 opining one way or another whether or not it</p>	<p style="text-align: right;">Page 188</p> <p>1 D. Larue 2 received by Radial, LIC and LDF LDCs so that 3 the outside investor or shareholder or 4 analysts could not determine whether or not 5 L&H had recognized the revenue? 6 MR. BUTLER: Objection to form. 7 A. You paraphrased what I said in that 8 paragraph. 9 From a review of their public 10 financial statements and/or press releases, 11 it would not have been possible for a 12 shareholder, creditor or other interested 13 party to determine if or when some or all of 14 the amounts received by L&H from the Radial 15 LDCs, the LIC LDCs and LDF LDCs had been 16 recognized by L&H as revenue. 17 Q. And, right, L&H hid it? 18 MR. BUTLER: Objection. 19 Q. I know you didn't use it, but isn't 20 that the logical conclusion? 21 MR. BUTLER: Objection to form. 22 A. Hidden to me sounds like something 23 deliberate and looks to the subjective state 24 of mind of someone who has done something 25 deliberately or inadvertently.</p>
<p style="text-align: right;">Page 187</p> <p>1 D. Larue 2 was or it was not clearly improper for L&H to 3 fail to disclose its relationship with the 4 LDF LDCs? 5 A. It depends on whether or not they 6 would be considered to be related parties. 7 Q. Correct. Since you have no opinion 8 to the former, you can't have an opinion to 9 the latter? 10 A. If there was related parties, there 11 is one route that should be taken and if you 12 didn't take it, it is clearly improper, if 13 they are not related parties, there is 14 another route. 15 From the facts and circumstances, I 16 can't conclude they were related parties. 17 Q. And you can't conclude that they 18 were not, correct? 19 A. That's correct. 20 Q. If we look at paragraph 7 of your 21 report, you talk -- you have a conclusion 22 there. 23 Is it correct that in paragraph 7, 24 you indicate that L&H's public financial 25 statements have, in fact, hidden the revenues</p>	<p style="text-align: right;">Page 189</p> <p>1 D. Larue 2 The fact that these revenues may 3 have been reported, in those financial 4 statements was not clear from the 5 presentation of the financial statements or 6 from the notes, footnote disclosure to the 7 financial statements. 8 Q. Wasn't it deliberate by L&H not to 9 include those revenues in the footnote 10 disclosures under related parties? 11 MR. BUTLER: Objection to form. 12 A. I don't know. 13 Q. You don't know? 14 A. You're asking me to opine on the 15 subjective state of mind of whoever might 16 have been involved in the decision. If, in 17 fact, an affirmative decision was made, an 18 overt decision was made. I can't do that. 19 Q. If L&H and the LDF LDCs were 20 related parties, then it would have been 21 clearly improper, would it not have, for L&H 22 not to disclose that the related party 23 transactions with the LDF LDCs? 24 A. Subject to a materiality standard, 25 if, in fact, they were related parties, that</p>

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<p>1 D. Larue 2 information should have been disclosed, yes. 3 Q. You're not suggesting that the 4 transactions with the LDF LDCs were not 5 material to L&H's financials, are you? 6 A. I haven't suggested one way or the 7 other. 8 Q. Do you have an opinion? 9 A. I haven't formed an opinion. 10 Q. How much did L&H recognize from the 11 LDF LDCs? 12 A. Well, again, that wasn't separately 13 disclosed in the public financial statements, 14 so there is no way for me to know how much of 15 the revenue that was reported was from the 16 LDF LDCs. 17 Q. Didn't you assume that amount in 18 your rebuttal report? 19 A. I assumed that they had recognized 20 that revenue. 21 Q. How much did they assume -- how 22 much revenue did you assume that L&H 23 recognized from the LDF LDCs? 24 A. The loan, my recollection, was for 25 \$20 million. I believe that most or all of</p>	<p>1 D. Larue 2 quarter of 1999? 3 MR. BUTLER: Objection. Form. 4 A. Again, that information is not 5 knowable from the public disclosures. 6 Q. But you know it? 7 A. I've assumed that they recognized 8 \$20 million or thereabouts. 9 Q. Isn't it more like 32 or 10 thereabouts -- 36 or thereabouts? 11 MR. BUTLER: Are you referring to 12 something in his report? 13 A. I don't see that number. 14 As I mentioned a moment ago, if 15 you're talking about the amount of revenue 16 recognized from the LDF LDCs, that included, 17 I believe, not only revenue that was paid in 18 the form of cash, but also accounts 19 receivable. 20 Q. And the 20 million was in cash, 21 correct? 22 MR. BUTLER: Objection to the form. 23 You're getting way beyond his factual 24 assumptions. 25 You can answer the question.</p>
<p>1 D. Larue 2 that was recognized as revenue. Some of that 3 may have been deferred. From the LDCs, I 4 believe there were also accounts receivable 5 that may have been recognized at revenue. 6 Q. I'm just asking about the LDF LDCs. 7 A. I'm referring to the LDF LDCs. 8 Q. When do you assume that the 9 transaction with the LDF LDCs was entered 10 into? 11 A. By transaction, you mean the 12 licensing agreement? 13 Q. Yes. 14 A. In paragraph 127, I state that the 15 matter in which L&H accounted for the amounts 16 it received from the LDF LDCs in the second 17 quarter of 1999 was not separately disclosed 18 on the July 28, 1999 press release or on the 19 10-Q for that quarter, for the second quarter 20 or on the 10-K for the year. 21 Q. So it was the second quarter of 22 1999, correct? 23 A. Yes, sir. 24 Q. And how much did L&H recognize in 25 revenue from the LDF LDCs in the second</p>	<p>1 D. Larue 2 So the record is clear, this 3 witness does not know any of the facts 4 in the case, aside from what he has been 5 asked to assume, so your questions 6 related to the fact, I don't see the 7 relevance. 8 Q. Let me make it clear. 9 How much did you assume that L&H 10 recognized in revenue with regard to the LDF 11 LDCs? 12 A. I don't see the amount. 13 Q. Let me hand you what we will mark 14 as Larue Exhibit 5. 15 (Rebuttal report marked Larue 16 Exhibit 5 for identification.) 17 Q. And ask if you can identify it for 18 me, please? 19 A. This appears to be a copy of my 20 rebuttal to Mr. Love's report. 21 Q. I'll direct your attention to 22 Exhibit D and can we refer to this as your 23 rebuttal report so we don't get into the 24 exhibit problem? 25 A. Yes, sir.</p>

<p style="text-align: right;">Page 194</p> <p>1 D. Larue 2 Q. I direct your attention to Exhibit 3 D to your rebuttal report. 4 A. I'm there. 5 Q. What is Exhibit D? 6 A. It's an adjustment to the Love 7 report, Exhibit 7-A. 8 Q. And how does it adjust, what are 9 the adjustments that you make? 10 A. I believe that in his report, his 11 Exhibit 7-A included the total amount of 12 revenues that he considered to have been 13 reported from the LDF LDCs. 14 What this does is it separates out 15 the amount of those revenues that was 16 financed in the form of cash from the loans 17 made to Lernout, Hauspie and Willard. 18 Q. Is it fair to say that what Exhibit 19 D does is it caps the, quote, improperly 20 recognized revenues at the amount of the loan 21 by Dexia and excludes all other revenues 22 recognized from an LDC that Dexia made a loan 23 to? 24 A. I believe that's right. 25 Q. And if we look at quarter 2 for</p>	<p style="text-align: right;">Page 196</p> <p>1 D. Larue 2 It is my understanding that you are 3 capping it at the amount of the loans and so 4 maybe I'm getting confused by the 5 subtractions. 6 What you're subtracting? 7 MR. BUTLER: Objection to form. 8 A. A moment ago you said excess. I 9 don't believe you meant to say the word 10 excess. 11 This chart shows how much revenue 12 was recognized by the LDF LDCs that was 13 financed by the loans from Willard, Lernout, 14 Hauspie and it does not include the total 15 amount of revenue that was apparently 16 recognized and disclosed in Mr. Love's 17 report. 18 Q. Do you have any -- so whatever that 19 total amount that Mr. Love reported would be 20 the total amount that L&H recognized with 21 regard to the LDF LDCs, correct? 22 MR. BUTLER: Objection to form. 23 A. I need to see his report. 24 Q. You can't tell from looking at your 25 report?</p>
<p style="text-align: right;">Page 195</p> <p>1 D. Larue 2 1999, does that help you identify -- you have 3 a \$16 million adjustment in Exhibit D, 4 correct? 5 A. Yes, sir. 6 Q. And if I am correct, that is the 7 amount, if I understand your chart correctly, 8 tell me if I'm wrong, it's your chart, that 9 is the amount of revenue that L&H recognized 10 from the LDF LDCs in excess of the \$20 11 million loan from Dexia to Lernout, Hauspie 12 and Willard? 13 MR. BUTLER: Objection to form. 14 A. You said the excess of the loan? 15 Q. Correct. 16 A. That's not the excess, that's the 17 amount of the loan. 18 Q. Sixteen million? 19 A. I believe that excludes the 20 accounts receivable revenue recognition. 21 Q. Which accounts receivable? 22 A. I'm assuming there were accounts 23 receivable. 24 Q. I agree. I understand that 25 completely.</p>	<p style="text-align: right;">Page 197</p> <p>1 D. Larue 2 A. I can speculate, but I would rather 3 see the report. 4 Q. All right. Let's make this easy 5 because what we're looking at, Exhibit D, do 6 you consider the amount of money recognized 7 as revenue by L&H from the LDF LDCs to be 8 material to L&H's financial statements? 9 MR. BUTLER: Objection. Form. 10 A. Say that again, the amount of. 11 MR. HARRIS: Can you read it back. 12 (Record read.) 13 A. You're referring to amounts in this 14 table? 15 Q. Sure. 16 A. There is a bigger amount in Mr. 17 Love's Exhibit 7-A, I believe. 18 Q. I agree. But I assume that -- 19 let's start with the \$20 million that you 20 show on your chart, if that's material to, 21 the bigger amount will be material, as well. 22 Do you consider the \$20 million 23 that you show on Exhibit D in your rebuttal 24 report which are the amounts L&H recognized 25 as revenue from the transaction with the LDF</p>

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1 D. Larue	1 D. Larue
2 LDCs to be material to L&H's financial	2 Q. You could do it tomorrow?
3 statements?	3 A. I think I could.
4 A. Are you referring to the quarterly	4 Q. You could?
5 results or to the year end results?	5 A. I have the knowledge of auditing
6 Q. Let's start with quarterly.	6 standards and I've been teaching auditing and
7 A. Quarterly, the amount, \$16 million	7 accounting for years and years.
8 relative to \$76 million worth of reported	8 Q. But you're not a certified public
9 revenues, I believe would be considered to be	9 accountant?
10 material.	10 A. You didn't ask me if I was
11 Q. Okay. And now that we have that	11 qualified to express an opinion. I'm not
12 opinion, let's go back.	12 qualified to express an opinion because I'm
13 Is it true that if the LDF LDCs	13 not a CPA. I am qualified to conduct an
14 were related parties to L&H, then it was	14 audit.
15 clearly improper for L&H not to disclose	15 Q. But outside of the classroom, you
16 those transactions in its second quarter	16 have never employed typical auditing
17 financial statements?	17 procedures in their entirety, correct?
18 MR. BUTLER: Can I hear the	18 A. In their entirety, I don't really
19 question again, please.	19 understand what you mean by that.
20 (Record read.)	20 Q. Let me change that.
21 Q. That's second quarter 1999.	21 A. There are a number of procedures
22 A. Again, you're assuming, you've	22 that I employed when I do forensic analysis.
23 asked me to assume if they are considered to	23 Q. Let me change that.
24 be related parties, which I didn't conclude	24 Is it true that auditors, when they
25 in my report.	25 are auditing a public company that files with
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1 D. Larue	1 D. Larue
2 Q. Correct.	2 the SEC, prepares before the audit begins, a
3 A. Yes. This should have been	3 detailed audit plan?
4 disclosed.	4 A. Yes, sir.
5 Q. If we return to your original	5 Q. Have you ever prepared a detailed
6 report. In paragraph 8, you refer to	6 audit plan for a public company outside of
7 something called typical auditing procedures,	7 the classroom?
8 correct?	8 A. No, sir.
9 A. Yes, sir.	9 Q. Now, are the detail auditing plans
10 Q. Now, you have never employed	10 for all public companies identical?
11 typical auditing procedures, correct?	11 A. Certainly not.
12 A. Under generally accepted auditing	12 Q. Have you ever -- do you have any
13 standards?	13 experience in auditing Belgium companies?
14 Q. Yes.	14 A. No, sir.
15 A. Outside the classroom.	15 Q. Do you have any knowledge of
16 Q. You never have?	16 auditing standards under Belgium practice?
17 A. Outside the classroom, my	17 A. No, sir.
18 experience in employing generally accepted	18 Q. And so when you say KPMG here under
19 auditing standards is limited to my role as	19 typical auditing procedures, you are not
20 the audit committee chairman for	20 referring to under -- how KPMG would have
21 Microstrategy.	21 typically conducted its audit in Belgium of
22 Q. In fact, you're not qualified to	22 L&H, correct?
23 conduct an audit for a public company that	23 A. Actually, I state that, that very
24 files its reports with SEC?	24 thing on page 6 of my report. All references
25 A. I wouldn't agree with that.	25 and discussions are to U.S. GAAP and U.S.